

Senate Bill 383

By: Senators Smith of the 52nd, Williams of the 19th, Hamrick of the 30th, Schaefer of the 50th, Pearson of the 51st and others

A BILL TO BE ENTITLED
AN ACT

To amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to provide that the clerk of superior court shall also serve as clerk of the state court, magistrate court, and juvenile court of the county; to provide for exceptions; to change the provisions relating to bonds; to change the provisions relating to personnel; to change the provisions relating to compensation; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by adding a new Code Section 15-6-37 to read as follows:

"15-6-37.

When any new court having jurisdiction throughout a county within this state is created by or pursuant to an Act of the General Assembly enacted on or after January 1, 2005, the clerk of the superior court of the county shall serve as the clerk of such court unless the chief judge of said court is authorized by a local Act of the General Assembly to appoint and employ a person other than the clerk of superior court as clerk of said court."

SECTION 2.

Said title is further amended by striking Code Section 15-6-89, relating to additional remuneration for clerks of superior court, and inserting in lieu thereof the following:

"15-6-89.

In addition to the minimum salary provided in Code Section 15-6-88 or any other salary provided by any applicable general or local law, each clerk of the superior court of any county who also serves as clerk of a state court, city court, juvenile court, ~~or civil court,~~ or any other court under any applicable general or local law of this state or who performs

1 duties pursuant to paragraph (1) of subsection (a) of Code Section 15-12-1 shall receive for
2 his or her services in such other court a salary of not less than \$286.73 per month, to be
3 paid from the funds of the county. ~~In the event any such court for which a clerk of the~~
4 ~~superior court is serving as clerk is abolished, the clerk of the superior court shall not be~~
5 ~~entitled to any salary heretofore received for service in such court."~~

6 SECTION 3.

7 Said title is further amended by striking Code Section 15-7-48, relating to bonds of state
8 court clerks, and inserting in lieu thereof the following:

9 "15-7-48.

10 (a) Except as otherwise provided in this subsection, in every state court created by the
11 General Assembly for the respective counties of this state, except where the state court
12 clerk is elected, the clerk of superior court shall serve as clerk. In a state court in which a
13 person other than the clerk of superior court has been employed by the chief judge of the
14 state court to serve as clerk, such person shall continue to serve as clerk upon approval of
15 the chief judge of the state court; provided, however, that, upon such person vacating his
16 or her office as clerk, the clerk of the superior court shall become the clerk of the state
17 court unless the chief judge of said court is authorized by a local Act of the General
18 Assembly to appoint and employ a person other than the clerk of superior court as clerk of
19 said court.

20 (b) Any person who serves as a clerk of any state court, as a qualification of holding his
21 or her office, shall execute bond in the sum of ~~\$25,000.00~~ \$100,000.00 for the faithful
22 performance of his or her duties as clerk, which amount may be increased by local Act.
23 However, any clerk of a superior court who is also serving as clerk of a state court shall not
24 be required to post a bond under this Code section; the bond given by the clerk of the
25 superior court for the faithful performance of his or her duties shall also be conditioned on
26 his or her faithful performance of his or her duties as clerk of the state court.

27 (c) The compensation of employees of the clerk of the state court shall be fixed by the
28 clerk and shall be paid out of county funds."

29 SECTION 4.

30 Said title is further amended by striking Code Section 15-10-105, relating to the selection of
31 magistrate court clerks, their compensation, and eligibility, and inserting in lieu thereof the
32 following:

33 "15-10-105.

~~(a) The General Assembly may provide by local law for the superior court clerk or state court clerk to serve as clerk of magistrate court or for the selection of some other person as the clerk of magistrate court and for the compensation of the clerk of magistrate court. In the absence of local law, the selection and compensation of the clerk of magistrate court shall be as provided by subsections (b), (c), and (d) of this Code section.~~

~~(b) With the consent of the clerk of superior court the county governing authority may provide that the clerk of superior court shall serve as clerk of magistrate court and shall be compensated for his or her services as clerk of magistrate court in an amount not less than \$286.73 per month. With the consent of the clerk of the superior court and clerk of the state court, the county governing authority may provide that the state court clerk shall serve as clerk of magistrate court and shall be compensated for his or her service as clerk of magistrate court in an amount not less than \$286.73 per month. Such compensation shall be retained by the clerk of superior court as his or her personal funds without regard to whether he or she is otherwise compensated on a fee basis or salary basis or both.~~

~~(c) If the clerk of superior court or the clerk of state court does not serve as clerk of magistrate court, then the county governing authority may provide for the appointment by the chief magistrate of a clerk to serve at the pleasure of the chief magistrate. A clerk of magistrate court so appointed shall be compensated in an amount fixed by the county governing authority at not less than \$286.73 per month.~~

~~(d) If there is no clerk of magistrate court, the chief magistrate or some other magistrate appointed by the chief magistrate shall perform the duties of clerk. A chief magistrate performing the duties of clerk, or another magistrate appointed by the chief magistrate to perform the duties of clerk, shall receive, in addition to any other compensation to which he or she is entitled, compensation for performing the duties of clerk, the amount of which compensation shall be fixed by the county governing authority at not less than \$286.73 per month.~~

~~(e) The compensation of the clerk or magistrate performing the duties of clerk shall be paid in equal monthly installments from county funds.~~

~~(f) The clerk shall be required to be at least 18 years of age and shall possess a high school diploma or its equivalent. The clerk shall not be subject to a residency requirement.~~

~~(g) In any case any magistrate may perform any duty to be performed by the clerk.~~

(a) Except as otherwise provided in this subsection, in every magistrate court of this state the clerk of superior court shall serve as clerk. In a magistrate court in which a person other than the clerk of superior court has been employed by the chief magistrate of the magistrate court to serve as clerk pursuant to general or local law, such person shall continue to serve as clerk upon approval of the chief magistrate; provided, however, that, upon such person

vacating his or her office as clerk, the clerk of the superior court shall become clerk of the magistrate court unless the chief magistrate of said court is authorized by a local Act of the General Assembly to appoint and employ a person other than the clerk of superior court as clerk of said court.

(b) Any person who serves as a clerk of any magistrate court of this state, as a qualification of holding his or her office, shall execute bond in the sum of \$100,000.00 for the faithful performance of his or her duties as clerk, which amount may be increased by local Act. However, any clerk of a superior court who is also serving as clerk of a magistrate court shall not be required to post a bond under this Code section; the bond given by the clerk of the superior court for the faithful performance of his or her duties shall also be conditioned on his or her faithful performance of his or her duties as clerk of the magistrate court.

(c) The compensation of employees of the clerk of the magistrate court shall be fixed by the clerk and shall be paid out of county funds."

SECTION 5.

Said title is further amended by striking Code Section 15-11-24, relating to juvenile court personnel, compensation, and removal, and inserting in lieu thereof the following:

"15-11-24.

~~The judge of the juvenile court shall have the authority to appoint clerks and any other personnel necessary for the execution of the purposes of this chapter. The compensation of the employees shall be fixed by the judge, with the approval of the governing authority of the county. The salaries of the employees shall be paid out of county funds. All appointments shall be made from eligible lists secured from the local merit boards in those counties where such boards exist or from lists established by competitive examinations conducted by the court. The appointment, salary, tenure, and all other conditions of employment of the employees shall be in accordance with the laws and regulations governing the merit system in operation or such rules and regulations as are established by the court. Any employee of the court may be removed for cause by the judge of the court; the reasons therefor to be assigned in writing.~~

(a)(1) Except as otherwise provided in this subsection, in every juvenile court the clerk of superior court shall serve as clerk. In a juvenile court in which a person other than the clerk of the superior court has been employed by the chief judge of the juvenile court to serve clerk pursuant to general or local law, such person shall continue to serve as clerk upon approval of the chief judge of the juvenile court; provided, however, that, upon such person vacating his or her office as clerk, the clerk of the superior court shall become

1 clerk of the juvenile court unless the chief judge of said court is authorized by a local Act
2 of the General Assembly to appoint and employ a person other than the clerk of superior
3 court as clerk of said court. The judge of the juvenile court shall have the authority to
4 appoint any other personnel necessary for the execution of the purposes of this article.

5 (2) When the clerk of the superior court does not serve as clerk of the juvenile court, the
6 following provisions shall apply:

7 (A) The judge of the juvenile court shall have the authority to appoint clerks and any
8 other personnel necessary for the execution of the purposes of this article; and

9 (B) The compensation of the employees shall be fixed by the judge, with the approval
10 of the governing authority of the county. The salaries of the employees shall be paid out
11 of county funds. Any employee of the court may be removed for cause by the judge of
12 the court, the reasons therefor to be assigned in writing.

13 (b) Any person who serves as a clerk of any juvenile court of this state, as a qualification
14 of holding his or her office, shall execute bond in the sum of \$100,000.00 for the faithful
15 performance of his or her duties as clerk, which amount may be increased by local Act.
16 However, any clerk of a superior court who is also serving as clerk of a juvenile court shall
17 not be required to post a bond under this Code section; the bond given by the clerk of the
18 superior court for the faithful performance of his or her duties shall also be conditioned on
19 his or her faithful performance of his or her duties as clerk of the juvenile court.

20 (c) The compensation of employees of the clerk of the juvenile court shall be fixed by the
21 clerk and shall be paid out of county funds."

22 **SECTION 6.**

23 This Act shall become effective upon its approval by the Governor or upon its becoming law
24 without such approval.

25 **SECTION 7.**

26 All laws and parts of laws in conflict with this Act are repealed.